

Gilhooly



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Aviation Systems Manufacturing, Inc.--
Reconsideration

File: B-241180.2

Date: February 1, 1991

Robert T. Owens for the protester.

Kathleen A. Gilhooly, Esq., and James Spangenberg, Esq.,
Office of the General Counsel, GAO, participated in the
preparation of the decision.

DIGEST

Fourth ranked offeror, with highest evaluated cost, is not a
interested party under the General Accounting Office Bid
Protest Regulations to question awardee's conformance to
specifications since protester would not be in line for award
even if the issues raised were resolved in its favor;
protester's unsupported assertion that all intervening
offerors are unacceptable is not sufficient to establish it
an interested party within the meaning of the Regulations.

DECISION

Aviation Systems & Manufacturing, Inc. requests reconsider-
ation of our October 12, 1990, dismissal of its protest
against award of a contract to Tracor Flight Systems, Inc.
under request for proposals (RFP) No. F44650-90-R0011, issue
by the Department of the Air Force for aerial gunnery target
towing services.

We affirm the dismissal.

In its initial protest to our Office, Aviation Systems
contended that the awardee's aircraft did not conform to
specifications.^{1/} We dismissed the protest because we deter-
mined that, given the nature of its protest, Aviation Systems
was not an interested party eligible to maintain a protest

^{1/} The awardee is the incumbent contractor.

against the award. The record showed that Aviation Systems was the lowest technically rated of four offerors and proposed the highest cost. Also, Aviation Systems did not contest its own evaluation. Even assuming award to Tracor was improper, as Aviation contended, there were intervening offerors that would be next in line for award with a higher technical rating and a lower proposed cost. Aviation thus lacked the requisite direct and substantial interest with regard to the award to be considered an interested party. See 4 C.F.R. §§ 21.0(a), 21.1(a) (1990); Kaiserslautern Maintenance Group, B-240067, Oct. 12, 1990, 90-2 CPD ¶ 288; Federal Info. Technologies, Inc., B-240855, Sept. 20, 1990, 90-2 CPD ¶ 245.

In its request for reconsideration, Aviation Systems states that it was not aware of its ranking when it filed its protest, and alleges that no other offerors' aircraft will meet the required specifications. In view of this allegation, Aviation Systems argues that it is an interested party.

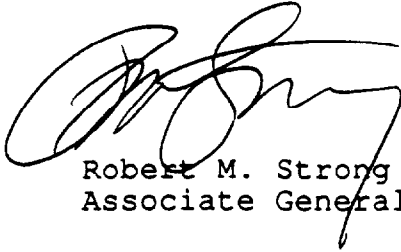
The Air Force has submitted a report in response to Aviation System's request for reconsideration. The report explains that the intervening offerors, Northern Lights Aircraft, Inc. and Corporate Jets, Inc., proposed aircraft that well exceeded minimum RFP requirements, and the report references the relevant portions of each offeror's proposal. The report states that based on the judgment and experience of technical evaluation board (TEB) members, the TEB has no reason to doubt the aircraft specifications as presented in the proposals.

In its comments on the agency report, Aviation Systems asserts that a "thorough review of the capabilities of the aircraft presented by the offeror should have been accomplished by personnel knowledgeable about the aircraft proposed without solely relying on the presentation and certification of the offerors."

To the extent Aviation Systems is challenging the evaluators' qualifications, we note that evaluator qualifications are within the contracting agency's sound discretion and are not subject to review by our Office unless there is a showing of possible abuse of that discretion by, for example, ignoring a conflict of interest or actual bias on the part of the evaluators. Warren Elect. Constr. Corp., B-236173.4; B-236173.5, July 16, 1990, 90-2 CPD ¶ 34. There has been no such showing here.

Aviation Systems offers no further argument or evidence in its comments in support of its allegation that the intervening offerors' proposed aircraft will not meet the RFP specifications. Aviation Systems's allegation about the intervening offerors, unaccompanied by any convincing evidence, amounts to mere speculation, and is insufficient to establish it as an interested party within the meaning of our Bid Protest Regulations. See Ahtna, Inc.--Recon., B-235761.7, July 17, 1990, 90-2 CPD ¶ 38.

The dismissal is affirmed.

A handwritten signature in black ink, appearing to read 'R. Strong', is written over the printed name and title.

Robert M. Strong
Associate General Counsel